

**Draft Meeting Minutes
Delta Protection Commission
September 26, 2002**

1. Call to Order/Roll Call

The meeting was called to order at 6:30 p.m. by Chairman Patrick McCarty. Commissioners present were: Beltran, Brean, Coglianese, Curry, Curtis, Ferguson, Glover, Macaulay, Sanders, Shaffer, van Loben Sels, and Wilson. Commissioners absent were: Bedford, Cabaldon, Calone, McGowan, Nottoli, and Thomson.

2. Public Comment

There were no public comments.

3. Minutes of the Last Meeting

On a motion by Commissioner Beltran seconded by Commissioner Wilson, the minutes were approved by voice vote. Commissioners absent from the last meeting abstained.

4. Chairman's Report

Chairman McCarty reported that the next meeting of the Commission would be held Thursday, November 21, 2002.

5. Commissioner Comments/Announcements

Commissioner Macaulay said that a notice for public scoping meetings for the South Delta Project was circulated. A meeting will be held at Roberts Union Farm Center in the South Delta on October 17. Other meetings will be held on October 7, 9, 10, and 15.

Commissioner Shaffer handed out pins to Commissioners and the public for the Buy California campaign, promoting California produce.

Commissioner Curry said in accordance with the American with Disabilities Act of 1990, Accessibility Guidelines addressing recreational and boating facilities, fishing piers, and other facilities were published on September 3, 2002; they go into effect in October 2002.

Commissioner Coglianese said the City of Rio Vista would be holding its annual Striped Bass Festival on October 11-13.

6. Attorney General's Report

There was no report from Mr. Siegel.

7. Executive Director's Report

The Delta Dredge Reuse Strategy, previously available in hard copy and on CD, is now also available for download from DPC's website.

The Dangermond Group is working on a recreation-oriented product for DPC. DPC was working toward development of a Delta Recreation Master Plan, which CALFED committed to fund. Due to budget constraints, CALFED was not able to fund that this year, so Dangermond is using the rest of the money to give the RCAC some guidelines to use when looking at proposed projects, specifically CALFED projects, and give some advice on how CALFED should incorporate recreation into its projects.

She attended a briefing on the River Lakes project on Stewart Tract, in the Secondary Zone. The City of Lathrop is beginning environmental documentation for this project.

8. Briefing on CALFED Activities and Projects

Cindy Darling, Delta Coordinator, gave an update on the status of several projects. In addition to the Notice of Preparation for the South Delta project, the San Luis Low Point project (Santa Clara Valley Water District) is going to scoping. The Los Vacqueros project concept report was released last month; this includes potential locations for new intakes in the Delta. A scientific review workshop on the Environmental Water Account will be held in October. The North Delta project will go to scoping as soon as a federal lead agency for the project is identified.

Ms Darling noted that SB 1653, Costa, authorizing the CALFED Bay-Delta Authority, was signed into law by Governor Davis. The Authority would include some existing agencies currently participating in CALFED, and would bring in five public members (one from each CALFED region, including the Delta), BDPAC representation (BDPAC Chairman), two at-large members (one appointed by the Assembly, one by the Senate), and two ex-officio members (one Assemblymember and one Senator). Public members will be appointed by the Governor in consultation with the Secretary of the Interior, and will need to have expertise in at least one issue and geographic area CALFED is dealing with. The Authority will come into effect on January 1, 2003; because the State budget has already been passed, CALFED will use its regular financial mechanisms for the rest of this fiscal year, and begin receiving its own funding in FY 03-04.

Numerous administrative and policy questions have arisen regarding the new governance entity: (1) Several CALFED agencies (DPC included) that signed the Implementation MOU do not have a seat on the entity; CALFED needs to determine what the role of these agencies will be in the authority's activities. (2) There is a question of how appointments from each of the geographic areas would be issued; the Governor will be considering this. (3) Also, where an implementation project or program falls within the jurisdiction of multiple agencies, the governance bill assigns lead responsibility (for example, DFG would administer the ERP); administrative details have to be worked out.

Commissioner Curtis said that DFG and DWR were designated as implementing agencies for specific tasks, and asked whether additional funding for those tasks would be provided. Ms Darling said individual CALFED agencies are given the responsibility to undertake specific actions, whereas the CALFED Authority has an oversight and coordination role, to ensure that implementation is proceeding in a balanced way. Implementing agencies should receive additional funding for implementation of CALFED actions; this will have to be worked out before the start of the next fiscal year.

Chairman McCarty said that under this Authority, the Delta region would have one representative out of 24 seats, and this representative does not have to be a landowner and is at the discretion of the Governor's appointment. Ms Darling said the bill requires that the representative resides in the Delta, but "Delta" is not defined.

Commissioner Coglianese asked if the new public advisory committee to the CALFED Authority would be the same as the existing Bay-Delta Public Advisory Committee (BDPAC), or if that group would be reconstituted in some way. Ms Darling said the intent is to use the existing BDPAC.

Commissioner Brean said DPC and its Recreation Citizens Advisory Committee have made a number of comments that CALFED activities are going to impact Delta recreation, and have

made recommendations that provisions be provided for input in that regard; this new Authority does not appear to allow that sort of input. Ms Darling said creation of the Authority does not affect the commitments made in the Record of Decision; the commitments to mitigate impacts to recreation, and to integrate recreation elements where possible, are still in place. These will be worked out as project-specific environmental documents are issued.

9. Briefing on Acquisition on Orwood Tract, Contra Costa County, East Bay Regional Park District

Chairman McCarty said EBRPD recently purchased a 276-acre parcel on Orwood Tract (in the Primary Zone) for future development of open space and park facilities.

Ms Aramburu noted typos in the staff report – on page 2, the reference to “Bradford Island” should be replaced with “Orwood Tract”, and in reference to the levees, they meet agricultural “standards”, not “stands”. Also, the site is not highlighted on the map provided in the staff report.

Bob Doyle, EBRPD, said EBRPD is an independent special district whose boundary includes all of the area within Alameda and Contra Costa counties. EBRPD has 59 park units covering 94,000 acres of primarily hilly terrain, and it operates State Park facilities and lands in addition to its responsibilities as a multi-county regional park agency. Its operational capital project budget is \$80 million annually, and it is one of the largest regional park systems in the nation.

EBRPD preserves the major natural features of open space in the two counties, provides active recreation, operates Del Valle State Recreational Area and other State Parks, and conducts environmental restoration in San Francisco Bay (they’ve acquired and restored about 7,000 acres of Bay wetlands). It also operates the largest regional multi-use trail system in the nation; EBRPD has always had a master plan of connecting the main parks with trails through area cities, providing communities with access to its parks. About 3% of its 94,000 acres are developed parks; the rest are water bodies, natural lands, open space, and critical habitat properties.

In 1988, EBRPD passed a bond that allowed it to acquire 26,000 new acres of park land. In that bond, there was an emphasis on providing public access (trail, fishing, boat access, camping, etc.) to the Delta region. It has since acquired 2,000 acres at Big Break (a large water area with abundant wildlife and fishing), with the intent of establishing a shoreline trail including a site for the Delta Science Center.

The Fallman property on Orwood Tract has been for sale for about seven years. The landowner’s real estate agent contacted EBRPD, which was looking at other properties that were a priority. The large expansion of Discovery Bay (Discovery Bay West – 2,000 new homes being constructed on the Delta Primary Zone boundary) substantially increased land prices on the properties EBRPD was looking at, and it was no longer able to reach a willing seller transaction. EBRPD then decided to purchase the Fallman property using \$1 million from its approved bond and \$500,000 in grant funding from State Parks. EBRPD intends to continue farming there; it has one of the largest grazing programs in the two counties (about 20,000 acres of its land is grazed for fire control and leased out to neighboring farmers). If EBRPD develops a park, a majority of the property would remain in agriculture, with a small portion designated for a regional park facility. Day use facilities, picnic areas, camping areas, fishing access, and perhaps boating access (the nearby Orwood Resort’s private boat launch facility is a compatible use for which EBRPD might be interested in working out a partnership agreement) could be provided.

Commissioner Brean asked if Mr. Doyle anticipates mitigation funds (from Discovery Bay West development) being available for this project in the future. Mr. Doyle said EBRPD expects to get

some money from Prop 40 for future facilities development, and is absorbing the operational costs of other new projects in its current budget.

Commissioner Shaffer voiced his support of EBRPD's commitment to maintain the property in agriculture, and added that there may be an opportunity to do a demonstration wildlife-friendly farming project or conduct outreach to the nearby urban areas to familiarize them with agriculture. Mr. Doyle said EBRPD has discussed using an agricultural easement program to buffer some of its park lands; it has found that farming next to the park core is an economic enhancement to these parks and their public use.

Chairman McCarty said he hoped this acquisition would be coordinated with CALFED's ERP, so that values on the acquired acreage are synergistic and not duplicative of identified acreage needs.

Chairman McCarty asked for public comments; there were none.

Commissioner Brean said Commission staff's request to be notified in the future of any pending or perceived Delta acquisitions was discussed with DPR staff, who expressed concern about inordinate lobbying for or against a project when people get to know too early what projects are being contemplated. DPR staff will, however, attempt to notify the Commission in a way that won't violate confidences they must keep relative to people who are competing for grants.

Ms Aramburu noted that out of the \$2 million in Prop 204 grant funding allocated to Delta projects, only \$1.5 million was spent (TNC's allocation of \$500,000 was not expended as of the three-year expiration date, and the money was returned to DPR). She will continue to work with DPR staff and the Legislature to determine if there is a way to re-capture that \$500,000 for future use in development of Delta recreation opportunities.

10. Application to Designate a Delta Resource Conservation and Development (RC&D) Program

Chairman McCarty noted Commission's Agriculture Committee has acted as a Steering Committee for this effort; three public workshops have been held over the past few months. The draft application has been reviewed by the Steering Committee and recommendations made; the application is due in mid-October.

Ms Aramburu said DPC directed its staff to assist in the preparation of an application to designate a Delta RC&D program and area, after being approached by the San Joaquin Resource Conservation District (SJRCDD), which thought this program could be a tool to address issues faced by Delta farmers. This program would provide federal funding for staff to form a local 501(c)(3) nonprofit.

Originally, it was envisioned that the Delta RC&D would look a lot like the Commission, but this vision has changed over time (State and federal agencies are not allowed to sit on RC&D councils, and membership was extended to other groups who do not hold a Commission seat). The application has been refined several times based on input from informational meetings and public hearings about the program; the version under consideration would be sent to Secretary of Agriculture Ann Veneman in October.

The proposed Delta RC&D area encompasses the Primary Zone and agricultural lands around Isleton that are in the Secondary Zone. Voting members on the proposed Council would initially be limited to agricultural groups and landowners, with other participants acting as advisory or non-voting members (including State agencies); the program is flexible enough that voting

membership can change in the future as folks become more familiar with it. She thanked the participants from the Steering Committee and members of the Delta community that have participated in the numerous meetings.

Chairman McCarty noted that it was originally anticipated that the new RC&D staff person would share an office with Commission staff, and be available to work back and forth on projects as directed by the RC&D council. Ms Aramburu said this would not present a conflict and the option is still available; the issue would be whether there is enough space in the Commission's current office to accommodate one or more new staff.

Vice Chair Ferguson, Chairman of the Agriculture Committee (and acting Steering Committee), thanked staff for its work on this effort. He cited the mission and vision of the proposed Delta RC&D Council to balance the three Delta land uses to the benefit of Delta residents and communities. He noted Central Sierra RC&D currently has 27 projects ranging from solid waste and co-generation facilities to streambank stabilization projects and weed management; with a budget of \$102,000 their projects yield a value to member counties of over \$16 million annually. Most funding for projects comes from State, federal, and private foundation grants pursued by RC&D coordinators.

Chairman McCarty asked for Commissioner comments; there were none. He then asked if there were any public comments on this item.

Bill Beatty, SJRCD Director, commended DPC for committing its staff to work on this effort, and thanked the Agriculture Committee for coming up with project ideas and tailoring the program to local conditions. He acknowledged NRCS staff Dave Simpson and Jeff Rodriguez, who offered considerable assistance, and the work of Commission staff on the application and the various outreach meetings. He said he used to hold Jim Kocsis's position (which includes annual review of all RC&D applications from California), and concluded that the Delta RC&D application is one of the best he's seen, and he would be surprised if it is not approved by Secretary Veneman.

Vice Chair Ferguson made the motion that the Commission endorse the application for a Delta RC&D as presented in the staff report (the area being the Delta Primary Zone plus agricultural areas around Isleton in the Secondary Zone, and the proposed voting membership including representatives from Reclamation Districts (RDs), Resource Conservation Districts (RCDs), county farm bureaus, land trusts, and the Delta Chambers and Visitors Bureau). Commissioner Wilson seconded the motion.

Commissioner Coglianese said it seems that some of the goals of this new entity would likely require urban support services, and questioned whether urban areas should be excluded from voting membership. Vice Chair Ferguson said that had been discussed; the Committee looked at suggestions on how to incorporate different interests into the membership, but ultimately decided to keep the voting membership simple for the purpose of the application. He said that the Council, once established, would determine its own composition, and likely would operate with assistance from several issue- or project-specific advisory subcommittees; these could be the forums through which urban areas could best participate at the outset. Mr. Rodriguez noted that the Delta RC&D Council would be allowed to implement projects outside its boundary in the future, depending on its desires and available resources. Chairman McCarty said feedback he's received has advocated narrowing the focus to get the program up and running, with an initial focus on Delta agricultural issues, and taking on more activities in the future as the initial program becomes perfected.

Commissioner Brean asked about the variability of RD representation. Vice Chair Ferguson said that the support of the San Joaquin County Farm Bureau was conditioned upon the requirement that voting members be agricultural landowners within the Delta Primary Zone. Ms Aramburu added that with DPC, RD representatives are selected by groups of RDs comprising the North, South, and Central Delta Water Agencies and West Delta Reclamation Districts. In this application, staff has attempted to get a better geographic distribution of RD representation (perhaps one representative from each county); this detail has not been worked out yet. Chairman McCarty said for the record that the San Joaquin County Farm Bureau's support is graciously accepted, but that particular condition may not be able to be guaranteed.

The motion was approved by unanimous voice vote.

11. Staten Island Management Agreement between Delta Protection Commission and Department of Water Resources

Chairman McCarty said the Commission considered a draft agreement at the July meeting. This agreement would allow DPC to monitor land uses on Staten Island as it is developed, and participate in its management plan.

Ms Aramburu said some of the funds to acquire Staten came from the Resources Agency, and with that came a commitment to maintain the island in wildlife-friendly agriculture in perpetuity. Half of this money came from DWR's Proposition 13 (Flood) funds, and DWR asked that there be an opportunity to evaluate the role of Staten Island as an occasional floodway; that is being evaluated as part of CALFED's North Delta Improvements Project. At that time, DPC asked that its oversight role be defined to ensure that both commitments are carried out over time as outlined in the agreement.

Commissioner van Loben Sels suggested that on page 3, item 6, the "member of the Commission" be changed to refer to a Commission member that has been voted upon and appointed by the entire Commission to act on their behalf on this matter, or a "designated representative" of the Commission. Mr. Siegel didn't think this change would present a problem; the language will be changed to reflect that intent.

Chairman McCarty asked for public comments; there were none.

Commissioner Wilson made the motion that the MOU be accepted with Commissioner van Loben Sels's suggested change; Commissioner van Loben Sels seconded. The motion was approved by unanimous voice vote.

12. Review and Comment on Goals and Priorities of CALFED Bay-Delta Public Advisory Committee's Working Landscapes Subcommittee

Chairman McCarty said that the BDPAC recently formed a new Working Landscapes subcommittee, dealing with issues associated with mitigation for loss of agricultural lands, wildlife-friendly agriculture, the inclusion of agriculture chapters in regional implementation plans, and good neighbor policies. The subcommittee is seeking input on its proposed goals and priorities.

Commissioner Shaffer said that prior to the formation of this subcommittee, there was a work group that tried to address some of these issues, especially dealing with mitigation of agricultural land conversion from CALFED activities. CALFED's Executive Director Patrick Wright thought this was important enough to formalize the group as a BDPAC subcommittee, and in so doing, has elevated some of these issues so the BDPAC can weigh in at a policy level. It is hoped that

eventually these issues can be elevated to the point where CALFED can initiate a Working Landscapes program; this is similar to how its Watershed and Environmental Justice programs were established. He noted that in addition to CDFA, DOC, and DPC staff participating on this subcommittee, DFG staff is participating. Participation on this subcommittee has been exceptional, and interest continues to grow.

At this point, the subcommittee has agreed on three goals and three priority actions. He feels that most if not all of the CALFED programs will involve or impact agriculture somehow, and that those regional plans that include ag elements will be stronger plans, and provide a platform for integration of some of the CALFED programs (integrating Levees with ERP, for example). In addition, it is hoped that the 31 potential mitigation measures for impacts to agricultural lands included in the ROD commitments can be fleshed out in this collaborative process.

Chairman McCarty suggested the Working Landscapes Subcommittee look at defining “levels” of agriculture. In terms of the necessity to embrace wildlife-friendly agriculture to ensure agriculture’s survival in the future, there needs to be some agreement on how such agriculture is defined. Commissioner Shaffer said he is hopeful that the American Farmland Trust’s Delta agriculture study will provide some of the information to help define these. Another tool is the Land Evaluation and Site Assessment (LESA) model developed by Dept. of Conservation; LESA is useful in determining impacts which hopefully could lead to a coherent and implementable mitigation policy, and identify opportunities for agricultural landowners to benefit from CALFED implementation.

Commissioner Macaulay said he intends to vote in support of the goals and priorities generally, but is unclear about what “mitigation” would mean in the context of, for example, the Dutch Slough project, where if the property weren’t used for recreation and habitat, it would become a residential area. In taking any action, he would like to see some consideration given to what the land might otherwise have been used for. Commissioner Shaffer noted that the Subcommittee added the qualifying phrase, “consistent with the Record of Decision”, to address this.

Commissioner Curry asked where the term "working landscapes" originated and what it means. Commissioner Brean noted that “landscapes” refer to huge tracts of land (e.g., savanahs, deserts, forests), and when both terms are used in conjunction, it implies that there are economic returns from the land, conjuring a vision of a large, energetic activity base, which is the case with agriculture. With the preservation of agriculture, there's a public/private interface between agriculture as a private industry and the concept of protecting a vast landscape of a working province in a way that's very public in terms of value. Commissioner Coglianese said there's a difficulty in communicating on this issue. People who do not depend directly on agriculture for their employment must recognize that there is still a value they enjoy by keeping this land in viable production. As long as they are willing to help pay for and protect agricultural lands, people in urban areas can be farmers' best allies, as long as farmers can accept the interest in their land in a positive way.

Commissioner Coglianese made the motion to support the Working Landscapes Subcommittee in proceeding with its goals; Commissioner Macaulay seconded. The motion was approved by unanimous voice vote.

13. Review and Comment on Proposed Interim Department of Fish and Game Acquisition Strategy

Chairman McCarty said DFG has proposed a series of commitments and a process for DPC and public review and participation in DFG decision-making about acquisition and management of

land within the Primary Zone, and is seeking the Commission's input; this has been reviewed by DPC's Agriculture Committee.

Ms Aramburu said the Commission received a staff report, largely focused on comments made to DFG and WCB in the process of evaluating the 13,000-acre Yolo Bypass acquisition. One of the concerns raised by DPC was that there is no master strategy for Delta ecosystem restoration under CALFED, and therefore no way to analyze how a specific proposed acquisition would "fit" into the program in the absence of such a plan. DFG staff has taken on the responsibility of preparing a Delta-specific Ecosystem Restoration Program (ERP), which is expected to be completed by the end of 2003. DFG has come up with some ideas of how to proceed with acquisition of key properties in the interim; these would be in place until the Delta ERP is completed.

Brad Burkholder, DFG, said DFG has been working on a process to move forward with Primary Zone acquisitions in light of the concerns raised by the Commission in the past. They've come up with three potential projects they'd like to move forward on, and are engaging WCB to help DFG address some of the technical issues that DPC and others have highlighted. The projects include two agricultural easements totaling ~1,500 acres for protection of Swainson's hawk and sandhill crane habitat, and the other project is in-fee acquisition of the 3,000-acre Canal Ranch.

Regarding the in-fee acquisition of Canal Ranch, there would be no land use change in the interim (it would remain in agricultural production for 5-7 years). Also, this acquisition has applicability to CALFED components other than the ERP, so future management of the property is still an open issue.

Commissioner Wilson said a pertinent issue brought up at the Ag Committee meeting is that land is still being acquired in the absence of a comprehensive plan, in violation of DFG's commitment to not acquire any more land until the Delta ERP was in place. Commissioner Curtis agreed that this commitment was made, but what DFG is asking now is, if it can meet certain conditions that address the Commission's concerns, is it all right to proceed with acquisitions in the absence of that plan? He said CALFED has set good goals, but the schedules it sets for its projects tend to slip; this is what's happened with the Delta ERP. DFG didn't expect the timeline to run so long on this project when it committed itself to no more acquisitions until its completion.

Commissioner Curtis noted that CALFED can't move forward until the Delta ERP is complete; if DFG can meet these conditions in the meantime they'd like to proceed, because the opportunity may not be available in the future. Mr. Burkholder added that DFG is basing its decisions on the best available information, such as the draft Stage 1 Implementation Plan, which identified targets and goals for the Delta. There are still assurances and issues that DFG will need to work out in forums such as the Working Landscapes Subcommittee over the next several months; DFG hopes to address these broader Statewide issues, and are confident that resolution will be reached on them before any land use changes occur.

Commissioner Wilson said Canal Ranch and Staten Island are in the middle of where floodway planning is occurring, and DFG is acquiring these properties in the footprint of the project before anyone has an idea of what the project is or what will occur on these properties (where levees will be set back, where floodways will be located). It appears that the only criterion is willing seller. A good example is the Giavannoni parcel out in the middle of the New Hope Tract, an isolated property whose protection would have edge effects on other farmers.

Mr. Burkholder said he's looking for additional ideas on how to address some of the issues. DFG is proceeding with getting WCB and legal staff engaged to refine some of the issues that have

been raised by CDFA and DPC, and plans to start negotiations in the hopes that over the next several months the issues can be worked out and resolved.

Vice Chair Ferguson said one of the issues brought up at Ag Committee was RD taxes, and asked if DFG has any ideas on how these can be consistently paid. Mr. Burkholder said DFG might work with Dave Feliz at Yolo Bypass Wildlife Area, and possibly Dixon RCD, to manage a contract so that easement money could be used to pay the RD taxes. As mentioned at the Ag Committee, if the property is designated a Wildlife Area, DFG would be mandated to pay those taxes, but there's still some risk associated with budget shortfalls.

Commissioner van Loben Sels said DPC and the Delta community would feel more comfortable if operations and maintenance funding issues were not only addressed, but solved, and RDs would be guaranteed that the maintenance would be adequately funded and performed in the future. Commissioner Macaulay noted that this is a concern that was raised with the WCB acquisitions last year, which elicited a positive response from DFG Director Bob Hight. One of the issues that remain to be settled, detailed in a letter from George Bayse, is in-lieu payment of North Delta Water Agency taxes, which provide for common benefits regarding adequate water quality and quantity within its area. DWR could work with DFG on this issue, recognizing that per the staff report (first bullet), DFG does not have the authority to use funds generated by a lease to pay in-lieu fees to government agencies and special districts. Commissioner Curtis said that he's been working with DFG's legal department, which believes it has delineated the benefits DFG gets from North Delta Water Agency so that if DFG is billed, it could pay those fees; DFG is now trying to generate a bill from North Delta Water Agency.

Commissioner Curtis said Commissioner Wilson's position is clear: that DFG should not acquire property until the Delta ERP is completed. Commissioner Wilson said WCB acquired an easement on Tyler Island, and is now two years behind on its RD taxes; these costs are borne by the other landowners in the RD. His position is that until these taxes are paid, the Prospect Island issues have been worked out with Ryer Island landowners, and the recent Yolo Bypass acquisition issues have been resolved, DFG should work on completing these projects before they acquire more property in the absence of a Delta ERP plan.

Mr. Burkholder said that in the case of Canal Ranch, DFG has spoken with the landowners and tenants, and knows that it can cash flow those payments; what DFG needs is a mechanism to make sure those payments get made. Commissioner Wilson said the same claims were made about the Staten Island acquisition a couple of years ago, but The Nature Conservancy recently requested and received another \$2 million to subsidize the farming operations there.

Commissioner Coglianese said one of the things that was most disturbing about last year's DFG acquisitions was that it was already a done deal when the public first found out about it, and she thinks continued dialogue on these issues is the only way to reach resolution. She asked when public notice would be given during this interim period, and how it would be noticed. Mr. Burkholder said that in the case of Canal Ranch, lots of public notice has already taken place; CALFED proposals have been submitted to CALFED since 1997, which entailed notice to Boards of Supervisors, DPC, and landowners, and there's also been discussion of the longer-term intent of the project. DFG has been negotiating an appraisal, which is a confidential process between the landowner and potential buyer, but now that landowners are comfortable with the appraisal, DFG is starting the process for public review of the acquisition. DFG has not yet held public hearings in the subject property area, but did get CALFED funding to do some outreach and scoping sessions on planning and design work on Canal Ranch. Due to conflicts in the development of the implementation plan (mandating DFG to coordinate their outreach efforts

with those of the North Delta project), that was put on hold, but DFG is looking for a time extension and hopes to hold hearings in the next year or two.

Commissioner Shaffer noted the commitment (bullet 2) that no land use changes occur until a management plan is completed; a suggestion that builds on that (bullets 3 and 4): if DFG could make the commitment that no land use change would occur until the funding issues are resolved, that provides a better assurance. He recommended that this additional commitment be made. Commissioner Shaffer said if the fee-title acquisition is a CALFED project, CALFED has a certain process in terms of developing the scientific basis (bullet 5), and asked if DFG would be committing to that process. Mr. Burkholder said DFG has already gone through extensive internal scientific review of these properties in terms of their ecological values, and recently committed to undergo the full CALFED external review.

Chairman McCarty directed staff to capture these comments and forward them to DFG, and he suggested that DFG bring this back to the Agriculture Committee for refinement.

Commissioner Beltran said this seems to be a problem of credibility and commitment. One way to resolve this would be to draw up a timeline; if DFG approaches the Ag Committee with a timeline that addresses the seven points on page 2, and ties the land purchases to those, DFG will have more credibility and may then get more support.

Commissioner Brean said that DFG buying an option on the property would enable it to make a decision in the future and not lose the property. Also, there are a number of situations where Dept. of Parks and Recreation has leases with concessionaires, who are obligated to pay a possessory interest tax, which is almost the same thing as property tax, and that may be an option for DFG to use to meet some of the financial obligations.

Chairman McCarty noted he has an economic interest in Canal Ranch, but when discussing acquiring large parcels in the Delta Primary Zone, a mechanism that as a Commissioner he feels fairly comfortable with is the one that was negotiated with DWR on Staten Island. With the Staten MOU, DPC has a mechanism to actively participate in future management decisions. When DFG comes back before the Ag Committee, in addition to addressing the seven bullet points, he would also like to see a level set in terms of property size where if the acquisition is above that size, and it's going to significantly impact land use, DPC would automatically become a participant in determining what happens to that land in the future and whether assurances are being met.

14. Review and Comment on Revised Application for CALFED Ecosystem Restoration Funding: Dutch Slough Acquisition and Restoration of Wetland Habitat

Chairman McCarty noted that this is a revised application for funding submitted by the Coastal Conservancy and the Natural Heritage Institute to restore ~1,200 acres of wetland habitat in the Secondary Zone (bordering the Primary Zone) in Contra Costa County. The land is situated within Oakley's city limits and is currently in agricultural use; owners hold an agreement with Contra Costa County for residential development.

Ms Aramburu said CALFED initiated its 2002 grant process last fall, and earlier this year released lists of projects that would not be funded, those that would be funded (or funded with changes), and those they were interested in funding pending resolution of various issues (these would be funded as Directed Actions). DPC delegated responsibility for issuing comments on these proposals to its CALFED Committee; comments were submitted earlier this year. The Dutch Slough project, the first of the revised applications for Directed Action funding received,

was reviewed by the CALFED Committee. CALFED's own Selection Committee has recommended that \$25.05 million be allocated for acquisition and planning only; no money for restoration is recommended at this time.

She noted that DPC received a memo summarizing the discussion by the CALFED Subcommittee. Committee members expressed frustration with CALFED's grant process as a whole, because of the inadequate amount of time for thoughtful review of the revised proposal; they are asking CALFED staff to be more considerate of regional agencies that have a real interest in reviewing these programs. Also, the Committee discussed the issue of "balance" among implementation of the CALFED components, and voiced its frustration over the huge amounts of money being spent on land acquisitions under the ERP while other key programs (e.g., levee maintenance) get no money at all. Commissioner Coglianese added that with the dollar figure for this acquisition being equal to that of all 46 ERP projects implemented in the Bay Area, it is very difficult to evaluate balance within just the ERP, much less the overall CALFED program, especially in the absence of the comprehensive restoration plan.

Specific to the revised application, the Committee discussed the project's huge expense in relation to expected ecosystem benefit, and whether this money might be better spent on the completion of other projects that have already been initiated. There was also some discussion of the interim management strategy – if CALFED determines this is the best place to spend this money, there are certain conditions that should be met (see DFG interim acquisition strategy discussion).

Commissioner Wilson noted that the memo gives an excellent summary of the Committee's discussion and concerns; he suggested it be formatted as a letter and submitted to CALFED. Commissioner Curtis said that in addition to CALFED having to be prepared to fund the restoration of this property, there needs to be a resolution for long-term operation and maintenance of the property once it's restored.

Mary Small, Coastal Conservancy, said the goals of the project are to restore a variety of habitat types and to develop new public access and recreation adjacent to Oakley. Part of the property north of the Contra Costa Canal would be deeded in a separate transaction to Oakley for a regional community and recreation center. If this project does not go forward, the property will be developed as housing; this is why the cost is so high. The intent is to lease back the land to continue the agricultural operations until the property is ready to be restored.

Coastal Conservancy, NHI, DWR, and the City of Oakley are involved in this project; the Conservation Fund has also been involved in negotiating the transaction. Proponents requested money for acquisition, planning, and some restoration; CALFED said a more comprehensive outreach and planning effort needs to be initiated before restoration funding would be considered. Coastal Conservancy staff will recommend to its board that it put a total of \$10 million into this project – half toward the acquisition, \$1 million to complement the planning process, and \$4 million to implement the first phase of the restoration. In addition, they hope \$2 million will be available from Natural Resource Conservation Service's Wetland Reserve Program (WRP) to assist with acquisition costs.

The Coastal Conservancy has committed to help lead the public planning process for integrating the master planning and public access components across the city and the larger restoration site. The project is supported by Contra Costa County Board of Supervisors and the City of Oakley as well as many other local groups and legislative representatives.

Commissioner Glover said this is a very aggressive project that addresses a number of things the DPC is about – agricultural use, recreation, and preservation of open space. He understands the issues and concerns that have been raised, but thinks a project of this magnitude can bring a lot of value to the area. He said the issues should be included in a letter so that they can be addressed.

Commissioner Curry asked about the current capability for sewage disposal in the area, in the case that DBW decides to fund facilities and/or pumpouts there in the future. Ms Small said she did not know about this, and offered to report back.

Commissioner Shaffer said he was surprised to hear of NRCS involvement through WRP; his understanding was that WRP is used for conservation easements with private landowners. Nancy Schafer, Conservation Fund, said public ownership of this property would not preclude a WRP easement being placed on it; WRP money could be used to assist with the restoration, as well. Commissioner Shaffer noted there was controversy when similar deals were made in the past, since WRP was mainly crafted to benefit private landowners. There was no response.

Commissioner Macaulay said this project has a long history, and there has been controversy regarding DWR involvement in the project. DWR seems to be the obvious entity to take on the land ownership responsibilities, and expects to eventually take ownership of this land if this acquisition is approved, but there are internal concerns that need to be resolved. DWR recognizes at least three responsibilities for this land; the first two – Delta water quality and fisheries restoration – are noted in the staff report. The third potential nexus, which has yet to be decided, is the possible use of SWP money to help restore some of the property as a component of its South Delta Project. DWR is discussing this internally, and it may come up in the scoping meetings in the next month.

Commissioner Curtis said this project provides the opportunity for the creation of recreation areas in area where they would be used, and also serves to provide good wildlife habitat. Most importantly, the project protects the property from being developed in a way that benefits none of the three uses that DPC is mandated to protect. To the extent that development can be averted and actions can be taken toward CALFED ERP targets in the Secondary Zone, this serves to further protect the Primary Zone.

Ms Aramburu noted that this proposal has gone to CALFED's Management Group for consideration, and is awaiting DPC comments. Commissioner Curry made the motion that Chairman McCarty should direct staff to provide comments; Commissioner Wilson seconded. The motion was approved by voice vote.

Chairman McCarty said he is excited about this project because of the potential it has to address all three legs of the DPC stool, but more importantly it provides a good buffer to encroaching urbanization into the Primary Zone. It has the potential to serve as a model for future projects.

15. Adjourn

Chairman McCarty asked that Commissioners give some thought before the next meeting to perhaps going back to meeting once a month, to shorten the length of agendas and enable timely response to issues. Ms Aramburu asked them also to think about what roles the Committees would have in this case; perhaps their roles would be minimized if the focus will be more on the full Commission.

The meeting was adjourned at 9:20 p.m. The next meeting of the Delta Protection Commission is scheduled for Thursday, November 21, 2002.